

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GABRIEL JURADO,

Petitioner,

vs.

BRIAN WILLIAMS, *et al.*,

Respondents.

2:13-CV-00251-GMN-PAL

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner. Petitioner has now paid the filing fee (see ECF #6). On the face of the petition petitioner indicates that he filed a previous federal habeas petition challenging this judgment of conviction, which was adjudicated on the merits (ECF #1-1 at 2; 2:08-cv-00508-KJD-LRL). However, 28 U.S.C. § 2244(3)(A) provides: “[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” The instant petition is a successive petition, which requires petitioner to seek and obtain leave of the Ninth Circuit Court of Appeals to pursue. *See* 28 U.S.C. § 2244(b)(3) et seq. The petitioner has not presented this court with proof that he has obtained leave to file a successive petition from the Court of Appeals. Accordingly, petitioner has thirty (30) days from the date of entry of this order to show cause and file such proof as he has to demonstrate that he has obtained the leave of the Ninth Circuit to pursue this petition.

Next, petitioner submitted a letter indicating that he paid the filing fee twice (ECF #7). Finance records for the District of Nevada reflect that he is correct. Accordingly, Finance shall refund \$5.00 to petitioner’s sister, who submitted two money orders for \$5.00 each. Petitioner shall send a letter to:

U.S. District Court
Attn: Finance
333 Las Vegas Blvd., South
Room 1334
Las Vegas, NV 89101

1 with his sister's name and address in order that Finance can complete such refund. Petitioner shall not
2 file such information with the court.

3 **IT IS THEREFORE ORDERED** that petitioner shall have **thirty (30) days** from the
4 entry of this order to show cause and file such proof he may have to demonstrate that he has obtained
5 the leave of the Ninth Circuit Court of Appeals to pursue this petition.

6 **IT IS FURTHER ORDERED** that if petitioner is unable to demonstrate that he has
7 obtained such leave, the court will enter an order dismissing the petition.

8 **IT IS FURTHER ORDERED** that Finance for the District of Nevada **SHALL**
9 **REFUND** \$5.00 paid in this case as set forth in this order.

10 DATED this 15th day of August, 2013.

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16 Gloria M. Navarro
17 United States District Judge
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